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6 Attorneys for Complainant

7
8 **BEFORE THE**
CALIFORNIA BOARD OF ACCOUNTANCY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Amended Accusation
Against:

12 HOWARD C. SCHNEIDER
2504 Joan Drive
13 Hacienda Heights, CA 91745

14 Certified Public Accountant No. 7642,

15
16 Respondent.

Case No. AC-2002-7

OAH No. L-2002050068

**STIPULATED SURRENDER OF
LICENSES AND ORDER**

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18 In the interest of a prompt and speedy resolution of this matter, consistent with the
19 public interest and the responsibility of the California Board of Accountancy of the Department
20 of Consumer Affairs the parties hereby agree to the following Stipulated Surrender of Licenses
21 and Order which will be submitted to the Board for approval and adoption as the final disposition
22 of the First Amended Accusation.

23 **PARTIES**

24 1. Carol B. Sigmann (Complainant) is the Executive Officer of the California
25 Board of Accountancy (Board), Department of Consumer Affairs. She brought this action solely
26 in her official capacity and is represented in this matter by Bill Lockyer, Attorney General of the
27 State of California, by Anne Hunter, Deputy Attorney General.

28 2. Howard C. Schneider (Respondent) is a partner with the accountancy

1 partnership known as Hamma and Nelson, and is represented in this proceeding by attorney Mr.
2 Raymond Finn, whose address is Attorney at Law, 15760 Ventura Blvd., # 700 , Encino,
3 California 91436.

4 **JURISDICTION**

5 3. On March 19, 1959, the Board issued Certified Public Accountant
6 Certificate No. 7642 to Respondent. The Certificate was in full force and effect at all times
7 relevant to the charges brought in Accusation No. AC-2002-7. Effective June 30, 2002
8 Respondent renewed his certificate as inactive.

9 4. On April 26, 1948, the Board issued Partnership Certificate No. 105 to
10 Hamma and Nelson. The Certificate was in full force and effect at all times relevant to the
11 charges brought in Accusation No. AC-2002-7. It will expire on April 30, 2004 unless renewed.
12 Sometime after March 19, 1959 Respondent was added to Hamma and Nelson's license.
13 Respondent is the only remaining licensed partner in the partnership.

14 5. Accusation No. AC-2002-7 was filed before the Board and is currently
15 pending against Respondent. The Accusation and all other statutorily required documents were
16 properly served on Respondent on April 22, 2002. Respondent timely filed his Notice of
17 Defense contesting the Accusation. A true and correct copy of Accusation No. AC-2002-7 is
18 attached as Exhibit "A" and incorporated herein by reference.

19 6. The parties stipulate that the Accusation in this matter shall be amended to
20 include the following:

21 a. Respondent is the owner and only remaining licensed
22 partner in the accountancy partnership known as Hamma and Nelson.

23 b. The charges and allegations in Accusation No. AC-2002-7 as
24 amended, if proven at a hearing, constitute cause for imposing discipline on the
25 partnership license (PAR Number 105) issued to Hamma and Nelson.

26 **ADVISEMENT AND WAIVERS**

27 7. Howard C. Schneider and Hamma and Nelson (Respondents) have
28 carefully read, fully discussed with counsel, and understand the charges and allegations in

1 Accusation No. AC-2002-7. Respondents also have carefully read, fully discussed with counsel,
2 and understand the effects of this Stipulated Surrender of Licenses and Order.

3 8. Respondents are fully aware of their legal rights in this matter, including
4 the right to a hearing on the charges and allegations in the First Amended Accusation; the right to
5 be represented by counsel, at their own expense; the right to confront and cross-examine the
6 witnesses against them; the right to present evidence and to testify on their own behalf; the right
7 to the issuance of subpoenas to compel the attendance of witnesses and the production of
8 documents; the right to reconsideration and court review of an adverse decision; and all other
9 rights accorded by the California Administrative Procedure Act and other applicable laws.

10 9. Respondents voluntarily, knowingly, and intelligently waive and give up
11 each and every right set forth above.

12 CULPABILITY

13 10. Respondents understand that the charges and allegations in Accusation
14 No. AC-2002-7 as amended, if proven at a hearing, constitute cause for imposing discipline on
15 the individual Certified Public Accountant Certificate issued to Howard C. Schneider.

16 11. Respondents understand that the charges and allegations in
17 Accusation No. AC-2002-7 as amended, if proven at a hearing, constitute cause for imposing
18 discipline on the partnership license of Hamma and Nelson.

19 12. For the purpose of resolving the Accusation as amended without the
20 expense and uncertainty of further proceedings, Respondents agree that, at a hearing,
21 Complainant could establish a factual basis for the charges in the Accusation as amended and
22 that those charges constitute cause for discipline. Respondents hereby give up their right to
23 contest that cause for discipline exists based on those charges. Respondents further agree that for
24 purposes of this proceeding and any future proceeding or other litigation before this Board or to
25 which this Board is a party, the facts set forth in the Accusation as deemed amended herein will
26 be deemed true and not subject to contest.

27 13. Respondents understand that by signing this stipulation they

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enable the Board to issue its order accepting the surrender of individual Certified Public Accountant Certificates No. 7642 without further notice or formal proceeding.

14. Respondents understand that by signing this stipulation they enable the Board to issue its order accepting the surrender of the partnership license (PAR 105) of Hamma and Nelson without further notice or formal proceeding.

15. Respondents admit that the reasonable costs of investigation and prosecution of this matter are \$5653.83.

CONTINGENCY

16. This stipulation shall be subject to the Board's approval. Respondents understand and agree that counsel for Complainant and staff of the California Board of Accountancy may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by them or their counsel. By signing the stipulation, Respondents understand and agree that they may not withdraw their agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender of Licenses and Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

17. The parties understand and agree that copies or facsimile copies of this Stipulated Surrender of Licenses and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

18. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

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9-16-2002 9:16AM

FROM HAMMA AND NELSON 562 696 0647


TO

815626960607 P.02

SEP-16-2002 10:22 FROM RAYMOND FINN

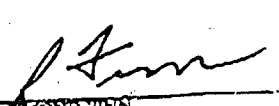
1 intelligently, and agree to be bound by the Decision and Order of the California Board of
 2 Accountancy.

3 DATED: 9-16-02

4 
 5 HOWARD C. SCHNEIDER, CPA No. 7642 and
 6 HAMMA AND NELSON, P.A. No. 105.
 7 Respondents

8 I have read and fully discussed with Respondent Howard C. Schneider the terms
 9 and conditions and other matters contained in this Stipulated Surrender of Licenses and Order. I
 10 approve its form and content.

11 DATED: 9-16-02

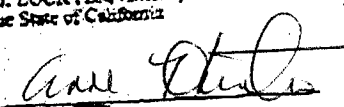
12 
 13 MR. RAYMOND FINN
 14 Attorney for Respondents

15 **ENDORSEMENT**

16 The foregoing Stipulated Surrender of Licenses and Order is hereby respectfully
 17 submitted for consideration by the Board.

18 DATED: 9-16-02

19 KILL LOCKYER, Attorney General
 20 of the State of California

21 
 22 ANNE HUNTER
 23 Deputy Attorney General
 24 Attorneys for Complainant

25 DD: Clerk/Recorder 03/4113-24381A07323
 26 Produced for submission 09/11/2002

**BEFORE THE
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the First Amended Accusation
Against:

HOWARD C. SCHNEIDER
2504 Joan Drive
Hacienda Heights, CA 91745
Encino, Ca. 91436

Certified Public Accountant No. 7642

Respondents.

Case No. AC-2002-7

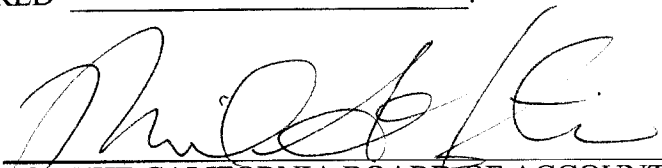
OAH No. L-2002050068

DECISION AND ORDER

The attached Stipulated Surrender of Licenses and Order is hereby adopted by the California Board of Accountancy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on December 20, 2002.

It is so ORDERED November 20, 2002.



FOR THE CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS

1 BILL LOCKYER, Attorney General
of the State of California
2 JAMES F. AHERN, State Bar No. 147620
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3 California Department of Justice
300 So. Spring Street, Suite 1702
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5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

7 **BEFORE THE**
BOARD OF ACCOUNTANCY
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. AC-2002-7

11
12 HOWARD C. SCHNEIDER
2504 Joan Drive
13 Hacienda Heights, CA 91745

14 Certified Public Accountant
License No. 7642

Respondent.

A C C U S A T I O N

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16
17 Complainant alleges:

18 **PARTIES**

19 1. Carol B. Sigmann (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the California Board of Accountancy, Department of
21 Consumer Affairs.

22 2. On or about March 19, 1959, the California Board of Accountancy (Board)
23 issued Certified Public Accountant Certificate Number 7642 to Howard C. Schneider
24 (Respondent). The certificate is subject to renewal every two years. The applicable renewal
25 period for this certificate is July 1, 2000 through June 30, 2002. The license was renewed on
26 "active" status on or about June 26, 2000. The Certified Public Accountant License was in full
27 force and effect at all times relevant to the charges brought herein and will expire on June 30,
28 2002, unless renewed.

3. Respondent is a partner with the accountancy partnership known as Hamma and Nelson. On or about April 26, 1948, the Board issued Certificate Number PAR 105 to Hamma and Nelson. The certificate is subject to renewal every two years. The applicable renewal period for this certificate is May 1, 2000 through April 30, 2002. The license was last renewed on or about April 10, 2000. Said license has been in full force and effect and will expire on April 30, 2002, unless renewed.

JURISDICTION

4. This Accusation is brought before the Board under the authority of the following sections of the Business and Professions Code (Code).

5. Section 5100 of the Code states, in pertinent part:

After notice and hearing the board may revoke, suspend or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct which includes, but is not limited to, one or any combination of the following causes:

(c) Dishonesty, fraud, or gross negligence in the practice of public accountancy or in the performance of the bookkeeping operations described in Section 5052.

(f) Willful violation of this chapter or any rule or regulation promulgated by the board under the authority granted under this chapter.

6. Section 5107 of the Code states, in pertinent part, that the Board's Executive Officer may request the administrative law judge, as part of the proposed decision in a disciplinary proceeding, to direct any holder of a permit or certificate, found guilty of unprofessional conduct in violation of subdivisions (b), (c), (i) or (j) of Section 5100, to pay to the Board all reasonable costs of investigation and prosecution of the case, including, but not limited to, attorney's fees.

7. Section 118, subdivision (b), of the Code provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

BOARD RULES¹

8. Title 16, California Code of Regulations Section 58, states that licensees engaged in the practice of public accountancy shall comply with all applicable professional standards, including, but not limited to, generally accepted accounting principles and generally accepted auditing standards.

PROFESSIONAL STANDARDS

9. Generally Accepted Auditing Standards ("GAAS"), promulgated by the American Institute of Certified Public Accountants ("AICPA"), and issued by the Auditing Standards Board, are to be adhered to on all auditing engagements. Statements on Standards for Attestation Engagements are issued by the Auditing Standards Board, and other Committees of the AICPA, and, like auditing standards, are to be followed on attestation engagements. Both the auditing standards and the attestation standards are contained in the Codification of Statements on Auditing Standards, published by the AICPA. Auditing standards are codified by AU number: attestation standards, by AT number. The sections pertinent herein include, without limitation, AU Section 230 ("Due Care in the Performance of Work") and 311 ("Planning and Supervision"), as well as AT Section 500 *et seq.* ("Compliance Attestation").

10. Government Auditing Standards, promulgated by the Comptroller General of the United States, include standards for audits of government organizations, programs, activities, and functions, and of government assistance received by contractors, nonprofit organizations, and other nongovernment organizations. They are to be followed by auditors when required by law, regulation, agreement, contract, or policy. The sections pertinent herein include, without limitation, Section 3.6, which deals with continuing education requirements, and Sections 6.63 through 6.65, which deal with working paper requirements. Government Auditing Standards are often referred to as the "Yellow Book." The 1994 revision of the Yellow Book is pertinent to the matter discussed following.

¹ Board of Accountancy Rules and Regulations are codified in Title 16, California Code of Regulations, beginning with Division 1, Section 1, under corresponding numbers and are hereinafter referenced as "Board Rules."

1 11. The guide entitled "Compliance Audits (Attestation Engagements) of the
2 Federal Student Financial Assistance Program at Participating Institutions" ("SFA audit guide"),
3 issued by the United States Department of Education ("ED"), is to be followed by all recipients of
4 student financial assistance ("SFA") funds. Applicable to the matter described herein is the June
5 1995 edition of the SFA audit guide.

6 12. The AICPA's Professional Standards set forth a code of conduct for the
7 accounting profession. The section pertinent herein includes, without limitation, ET Section 501,
8 entitled "Acts Discreditable."

9 **CAUSE FOR DISCIPLINE**

10 13. Hamma and Nelson was engaged to perform, and did perform, a
11 compliance audit of the Federal Student Financial Assistance Program at Platte College, San
12 Francisco, for the award year ending June 30, 1996. Respondent was the engagement partner for
13 said audit. The compliance audit performed by Hamma and Nelson was rejected by ED.

14 14. The work papers in support of said audit contain departures from the SFA
15 audit guide, as summarized below.

16 A. The engagement letter issued by Respondent, on behalf of his
17 firm, excluded certain statements required by the SFA audit guide, page I-5: namely, a
18 statement that the compliance attestation engagement would be performed in accordance
19 with Statement on Standards for Attestation Engagements No. 3, with Government
20 Auditing Standards, or with the SFA audit guide. In addition, the engagement letter failed
21 to state that both parties understood that ED intended to use the independent auditor's
22 report to help carry out its oversight responsibilities of the Title IV programs.

23 B. The work papers, in support of the compliance audit, do not
24 evidence a review of prior audit findings, as required by the SFA audit guide, page I-6.

25 C. The work papers do not demonstrate that management's written
26 assertions were obtained, as required by AT Section 500.70. AT Section 500.09 states
27 that a practitioner may perform an engagement related to management's written
28 assertions, about an entity's compliance with specified requirements or about the

1 effectiveness of the internal control structure over compliance, only if management accepts
2 responsibility for and evaluates the entity's compliance with specified requirements and the
3 effectiveness of the entity's internal control structure over compliance.

4 D. The work papers do not document adequately the sampling
5 methodology used to test management's assertions on student eligibility, disbursements,
6 and refunds in Section II of the SFA audit guide. Section I of the SFA audit guide, pages
7 I-10 and I-11, requires that the population of students who received Title IV assistance
8 during the award year be segregated into two universes, and those two universes of
9 students be used to calculate a withdrawal benchmark. The universe sizes dictate the
10 sample sizes and the withdrawal benchmark rate dictates the sampling methodology.

11 E. The work papers do not contain documentation showing that the
12 auditor reviewed or tested the institutional eligibility ratios. The SFA audit guide (pages
13 II-4, II-5, procedure "g") requires that the auditor obtain from the institution the
14 calculation of institutional eligibility ratios, then recompute the institution's calculation and
15 test the universes used for completeness and proper classification.

16 F. The work papers do not document that the auditor's review of
17 student eligibility included tests required by the SFA audit guide pages II-11, II-12,
18 procedures "b" and "c."

19 G. The work papers do not evidence that a sample of student status
20 confirmation reports were tested for accuracy and timeliness of submission or that an
21 inquiry was made of management to determine if the institution was entitled to receive
22 credit or reimbursement for any Pell grant awards not previously recognized by ED, as
23 required by the SFA audit guide page II-7, procedures "d" and "e."

24 H. The work papers do not evidence that the auditor reviewed the
25 college's direct loan process, for insuring a complete and accurate Office of Postsecondary
26 Education identification number on loans, and that actual disbursement dates were input
27 into the Direct Loan software system, as required by the SFA audit guide, page II-17,
28 procedure 2.

1 15. The compliance audit performed by Hamma and Nelson is subject to
2 Yellow Book requirements because Platte College receives government assistance. The work
3 papers, in support of the compliance audit of Platte College, do not meet the documentation
4 requirements set forth in the Yellow Book. In particular, the work papers fail to document
5 objectives, scope, and methodology; and, the work performed to support significant conclusions
6 and judgments. In addition, the work papers fail to document supervisory review of the work
7 performed.

8 16. The work papers, in support of the compliance audit of Platte College,
9 contain the following departures from GAAS.

10 A. The work papers do not demonstrate that the work was adequately
11 planned or that the staff assistant was properly supervised, as set forth in AU Section 311.

12 B. The work paper deficiencies identified in paragraphs 14 and 15
13 above demonstrate a lack of due care in the performance of the work. Due care imposes a
14 responsibility upon each person within a firm to observe the standards of supervision and
15 reporting. Exercise of due care requires critical review, at every level of supervision, of the work
16 done and the judgment exercised by those assisting in the audit. AU Section 230 addresses the
17 subject of due care in the performance of the audit.

18 17. Respondent has not met governmental continuing education requirements
19 mandated by the Yellow Book. Section 3.6 of the Yellow Book requires each auditor responsible
20 for planning or directing an audit, conducting substantial portions of the fieldwork, or reporting
21 on the audit under Government Auditing Standards to complete, every two years, at least 24 of a
22 minimum of 80 hours of continuing education and training in subjects directly related to the
23 government environment and to government auditing. Respondent completed no governmental
24 continuing education courses, within the license renewal period ended June 30, 1998, and only 16
25 hours of governmental courses, within the license renewal period ended June 30, 2000.

26 18. Respondent, on behalf of his firm, discarded the original work papers in
27 support of the subject audit of Platte College in or around 1999. The auditor's report for this
28 engagement was issued on August 15, 1997. Section 6.65 of the Yellow Book states that audit

1 organizations should establish reasonable policies and procedures for the safe custody and
2 retention of working papers for a time sufficient to satisfy legal and administrative requirements.


3 19. Respondent's acts, set forth hereinabove, collectively and individually
4 constitute unprofessional conduct, in violation of Section 5100 of the Code; gross negligence, in
5 violation of Section 5100(c) of the Code; and, failure to comply with applicable professional
6 standards, in violation of Section 5100(f) of the Code and Board Rule 58. ET Section 501.4 of
7 the AICPA's Professional Standards states that if a member has accepted an engagement for an
8 audit of government grants, government units, or other recipients of government monies, he
9 undertakes an obligation to follow specified government audit standards, guides, procedures,
10 statutes, rules, and regulations, in addition to GAAS. Failure to do so constitutes an act
11 discreditable to the profession, in violation of Rule 501 of the AICPA's Professional Standards,
12 unless the member discloses, in his report, the fact that such requirements were not followed and
13 the reasons therefor.

14
15 **PRAYER**

16 WHEREFORE, Complainant requests that a hearing be held on the matters herein
17 alleged, and that following the hearing, the Board issue a decision:

- 18 1. Revoking, suspending, or otherwise imposing discipline upon Certified Public
19 Accountant Certificate Number 7642, issued to Howard C. Schneider;
- 20 2. Ordering Howard C. Schneider to pay to the Board the reasonable costs of
21 investigation and prosecution of this case, pursuant to Code Section 5107;
- 22 3. Taking such other and further action as the Board deems proper.

23 DATED: April 17, 2002

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25 
26 CAROL B. SIGMANN
27 Executive Officer
28 California Board of Accountancy
Department of Consumer Affairs
State of California
Complainant